

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

C. MIGUEL GONZALEZ-AGUILERA,

Petitioner,

2:13-cv-01691-TC

v.

ORDER

MARK NOOTH,

Respondent.

AIKEN, District Judge.

Petitioner, an inmate in the custody of the Oregon Department of Corrections, filed a petition under 28 U.S.C. § 2254 challenging his April 1, 2009, conviction for Robbery in the Second Degree.

Petitioner now moves to dismiss the petition "without prejudice to my right to refile in the future." Motion to Dismiss (#10).

Petitioner's motion for voluntary dismissal is allowed. The Clerk of the Court is directed to enter a judgment dismissing this proceeding without prejudice.

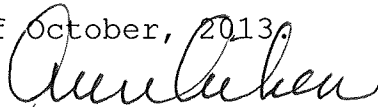
However, petitioner is advised:

Under 28 U.S.C. § 2244(d), a one year statute of limitations applies to petition's for habeas corpus relief under 28 U.S.C. § 2254. The statute begins to run on the date the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review. 28 U.S.C. § 2244(d)(1)(A). Time elapsed after finality and before collateral filing, and time after final collateral disposition and before federal filing counts against the year. 28 U.S.C. § 2244(d)(2); Nino v. Galaza, 183 F.3d 1003, 1006-07 (9th Cir. 1999).

Petitioner is further advised:

The dismissal of this proceeding will "re-start the clock" for purposes of the statute of limitations. The fact that the dismissal is "without prejudice" is not intended to constitute a tolling of or otherwise affect the statute of limitations.

DATED this 29 day of October, 2013.



Ann Aiken
United State District Judge